

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):	Poitras et al.	}	GAU:	3725
Serial No.:	11/814,308	}	Examiner:	Self, Shelley M.
Filed:	03/31/2004	}		
Title:	Automated Composting System	}		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

The Applicant thanks the Office for the consideration given the present application in the initial Detailed Action in this matter. With the present response, the Applicant has endeavored to respond most completely to each of the issues raised by the Office to ensure that the application is in condition for consideration on its merits.

Election / Restriction

In the Detailed Action, the Office found that the application contains claims directed to two patentably distinct species of the invention, particularly, a first species of Figures 1-4 and a second species of Figures 5-9. Accordingly, the Office required that the Applicant elect a single disclosed species for prosecution on the merits to which the claims shall be restricted should no generic claim finally be held to be allowable. At least claims 1 and 31 were determined to be generic.

In reply, the Applicant elects with traverse the species defined of Figures 1-4. The

Applicant does so with the understanding that, upon the allowance of a generic claim, the Applicant will be entitled to the consideration of claims to additional species written in dependent form or otherwise including all limitations of an allowed generic claim. It is believed that the following claims read on the elected species: 1, 8-31, 36, and 37-43.

The Applicant submits that the foregoing election of species and listing of claims meet the Office's requirement for election / restriction. Accordingly, it is respectfully submitted that the application is in condition for consideration on the merits.

The Applicant's election is, however, with traverse. Pursuant to § 808.02 of the MPEP, it is clear that, even where related inventions are independent or distinct, a restriction requirement is proper only when "there would be a serious burden on the examiner if restriction is not required." To establish such a serious burden, it must be shown that the species are separately classified, that they have achieved a separate status in the art even though classified together, or that they would require a separate field of search. "Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions." *Id.*

In the instant case, all claims are directed to a composting system. As such, it would seem that all claims would be similarly classified. Further, there is no indication that any particular species has achieved a separate status in the art. Still further, it does not appear that a separate field of search would be required for any particular species as compared to any of the others.

As a result, the Applicant submits that it would be proper to consider the enumerated

species in a single application. Therefore, the Applicant most respectfully requests that the Office reconsider and retract its restriction requirement.

Conclusion

In closing, the Applicant believes that all issues raised in the Detailed Action have been addressed. If, after consideration of the present response, there remain any open issues in this application that possibly can be resolved by a telephone interview, then the Applicant's undersigned attorney most respectfully requests that he be called to discuss and attempt to resolve those issues.

April 25, 2007

Respectfully Submitted,

/Thomas P. O'Connell/

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I hereby certify that this correspondence is being to the United States Patent and Trademark Office by use of the EFS-Web on this the 25th of April, 2007.

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April 25, 2007

Date